App F IX 4

Previous References

1944 Municipal

File No 61-44
Serial Nos 9, 10

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos 2

Part B for Gc Colombo

SUBJECT

Claiming of damages by Mr H-H Krishnamurthy Rao for injuries sustained by him by falling into a pit ~~of~~ excavated by Health Dept. people

Re S.D.P.H.

L 29623 dated 5.4.10 by

to award the threatened suit

2141/P/44 1905/L

1

Letter No C-4157, Dt 11-9-44 from the Dr of Health forwarding for instructions a notice Dt 28-7-44 by Mr H.S. Raja Iyengar, M A.B.L, Advocate, Vani Vilas circle, Basavangudi, on behalf of Mr H A Krishnamurthy Rao, claiming damages of Rs 15,000/- for injuries etc. sustained by his falling into the pit, excavated for purposes of manhole, alleged to have been left unguarded & uninferred on 31-3-44.

Submitted The Law Section will also be consulted about the notice received from the Advocate

13/9

Law Secy

13/9

Advocate Law Secy

13/9

No 14 dt 14-9-44

14/9

This is in regard to a notice claiming damages of Rs 15,000/- for injuries sustained by one Mr H A Krishnamurthy Rao on account of his falling into the pit

excavated for purposes of manhole on the right of the title. It is alleged in the notice that the pit and trench were left unguarded and unfenced and without any device to warn off the passers after dusk on the ground of gross negligence on the part of the Concerned authorities, as a result of which the said person sustained injuries, damages to the tune of Rs 15,000/- has been claimed. The point for consideration is whether the accident, if true, was due to the negligence of the concerned authorities, and, if so, is the Department concerned liable in damages for the injuries caused to the victim. From the report of the Special Officer, who was in charge of the works, it will be seen that necessary barricading, red flags etc had been provided and that this is testified to by the Asst Engineer who states that the Contractor had observed all the necessary conditions set out in the tender including barricading and other guarding lights at nights at the excavated spot. Hence the allegation of 'gross negligence' etc appears to be without foundation. Further, one other aspect

1905

of the matter seems to require consideration the alleged accident occurred on 3/3/44 and the notice was issued on 28/7/44 – that is, nearly four months after the alleged occurrence. This is a strange circumstance and is calculated to unfavourably influence the allegations of the claimant. In view of this belated nature of the notice coupled with the repudiation by the officers concerned of the allegation of negligence on their part, the threatened suit may perhaps be awarded.

Dr
5/10/44

Every precaution, that was necessary has been taken, & there does not seem to be any "gross negligence" on the part of the staff. The disposal of property is on the part of the belated nature of the notice, & absence of any medical certificate etc for which a duty responsibility on the part of the complainant arises, the threatened suit may be awarded.

Law Secretary

5/10/44

If the facts recorded are correct, the threatened suit may be awarded & contested.

MINISTER
& P H
1944
24

4.

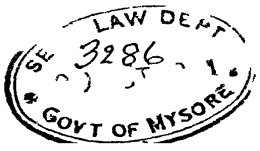
L S & Pol) 1945/L

19/10

19/10

Sent with a draft letter to Dep't

19/10 A copy reply to the Dept
in accordance with the previous
Law letter. Copy
Law dept 19/10



20/10 The Dy of P draft
L 3823 d 24-10-44
Sent, [illegible]
Slate letter thereon thereto letter Secretary may be

HU 8144-9 5

No C-4-157
Encl one notice and reports

GOVERNMENT OF MYSORE
PUBLIC
DEPARTMENT OF HEALTH

1905/2

DR P PARTHASARATHY L M S B Sc (Mad) L R C P & S (Edin)
D T M (Lond) D P H (Camb)
Director of Health

BUREAU OF MATERNITY CHILD AND OTHER WELFARE WORKS
Vani Vilas Centre Vani Vilas Road
Bangalore (S India) *dated* 9th September 1944

To

The Secretary to Government,
Law Department, Bangalore

LEG SECY LAW DEPT 12 SEP 1944 GOVT OF MYSORE

Sub - Notice dated 28 7 1944 by Mr H S Raja Iyengar, M A , B L Advocate, Vani Vilas Circle, Basavangudi, Bangalore, on behalf of Mr H A Krishnamurthy Rao, Claiming damages of Rs 15,000 for injuries etc sustained by his falling into the pit, excavated for purposes of manhole, alleged to have been left ungarded and unfenced on 31 8 1944

I have the honour to forward herewith in original the Notice dated 28 7 44 issued by the above mentioned lawyer to the Executive Engineer, City Drainage Division claiming damages assessed at Rs 15,000 for injuries sustained by Mr H A Krishnamurthy Rao, on account of the fall into the excavated pit for manhole on the night of 31 8 1944 The complainant alleges that the pit and trench were left ungarded and unfenced, without any device whatever to warn any passerby after dark

It is reported by the Special Officer that there was not negligence on the part of the Contractor of the Department in providing barricading and danger lights at nights at the excavated portions In fact, he states that the tendered specifications for earth work excavation includes these two items of work and they are being attended to promptly by all the tendered contractors

The accident occurred on 31 8 1944 and the notice is received after nearly four months

The statements obtained from the Assistant Engineer, the Sub-Overseer and the Contracter all testify to the above facts All the reports are enclosed herewith in original for perusal and return

I request you to be so good as to obtain and convey instructions of Government in the matter

I have the honour to be,
Sir,
Your most obedient servant,

Director of Public Health

BSJ

To /L3823/ HH 81-44-10 dt 2nd-10-44.
The Director of Public Health
in Mysore, Bangalore.

Subject — Notice dt 28-7-44 by Mr N S Raja Iyengar Advocate, B'lore, on behalf of Mr M A Krishna Murthy Rao, claiming damages of Rs 15,000, for injuries sustained by his falling into the Civil Hospitals for the purposes of a man-hole, alleged to have been left unguarded and unfenced on 31-3-44

Sir,

With reference to your letter No 4-157, dt 11-9-44, & relative correspondence on the above subject, I am directed to state that, if the facts of the case as stated by you are correct, the threatened suit may be awaited and contested

2) the records accompany

Yours faithfully
for Secretary